

**Citizen's Coordinating Council  
Pittsfield High School  
January 6, 1999  
Meeting Highlights**

Prepared by the Massachusetts Office of Dispute Resolution.

**Participants**

22 members of the CCC were present. There were 7 people in the audience.

**Introductions**

All members introduced themselves.

**Announcements and Other Pre-Presentation Activities**

Jane distributed packets to the Council and briefly summarized each enclosed item. The packet included: a proposed agenda, the revised version of the CCC Purpose Statement and Operating Guidelines, a list of possible future agenda items based on CCC input to date, a worksheet to help decide on future agenda items, a draft Action Item Tracking Form, a list of CCC meeting dates proposed for the next 11 months, and a revised version of the Meeting Highlights from the December 3, 1998 CCC meeting. Jane also distributed an Executive Summary of the Agreement in Principle between the City of Pittsfield and General Electric for redevelopment at portions of the facility. Jane noted that members should contact Harry Manasewich at MODR (617-727-2224x313) if they would like the complete version.

Jane also mentioned that several additional items would be distributed to the group at the conclusion of the Trustee's presentation. These included: a detailed list of possible future agenda items from the Housatonic River Initiative, an excerpt from the MA Contingency Plan (MCP) Question and Answer Fact Sheet concerning use of innovative technologies that reuse and recycle wastes (provided by a CCC member), a DEP-produced fact sheet outlining remedial actions to date at the Pittsfield Landfill relative to ongoing drum removal activities, and a letter from a CCC member not in attendance concerning recommendations on how the group should decide on the importance of various issues.

Some discussion ensued about 2 of the above items; 1) regarding the DEP landfill factsheet, DEP provided a brief overview of their work at the Pittsfield Landfill, 2) regarding the letter on decisionmaking, Jane noted that while achieving consensus would be valuable, it would be equally valuable to note majority and minority opinions. A member also provided a brief overview of some research on the storage of hazardous materials.

Jane also noted that she has identified a person to represent human health on the Council and that this person is expected to be at the next CCC meeting.

The CCC mailing list/sign in sheet was distributed to the Council. Members were asked to review the list and make any necessary corrections and to note their attendance by putting a check next to their name. This will be done at all future meetings.

### **Agenda Review**

The proposed agenda was reviewed and agreed upon by all.

### **Review of CCC Purpose Statement and Operating Guidelines**

The revised version, as attached in the CCC packet noted above, was accepted.

### **Presentation of Natural Resource Damages Issues by Natural Resource Damages Trustees**

Two representatives of the four Trustees groups – Anton Geidt, a federal Trustee from the National Oceanographic and Atmospheric Administration (NOAA), and Jan Reitsma, the MA Trustee from the MA Executive Office of Environmental Affairs - were present to explain natural resources damages issues and to answer questions from the group. The Housatonic River Evaluation of Natural Resource Damages document, as presented in Lee in October of 1998, had been mailed to CCC members in advance of the meetings and additional handouts were distributed to the group at the start of the meeting. Jane noted that some pages were inadvertently missing from the mailing of the document and that members should contact Harry Manasewich if they would like the missing pages. CCC members had provided the Trustees with a series of questions to which the Trustees had prepared answers in advance of the meeting.

The Trustees went over the background of the NRD. They further explained that NRD issues can be handled in one of two ways: 1) a NRD claim can be developed by the Trustees and money for natural resources damages may be obtained if the Trustees win a lawsuit against the Potentially Responsible Party; or, 2) natural resources damages money can be obtained as part of a negotiated settlement (as it was in the case of the GE facility). In either case, the money resulting from either a lawsuit or a negotiated settlement must be used to restore and replace damages to natural resources/the environment.

In the Settlement negotiated with GE, \$15 million will be given to the Trustees by GE. There will be 5 restoration projects and one ‘offset’ performed as part of the agreed upon remediation. If PEDA makes a profit redeveloping portions of the facility, PEDA will provide \$4 million to the Trustees to fund further restoration projects. CCC members questioned whether the \$4 million was guaranteed. The Trustees responded that legislation is currently being formulated that would decide whether the \$4 million is required or guaranteed, regardless of profit and “ability to pay”. The legislature has already decided that PEDA has the authority to make such a contribution, but hasn’t decided yet whether it must provide the funds. However, the Trustees also pointed out that the Settlement Agreement states that if PEDA makes money, a percentage of that profit shall be handed over to the Trustees. The Trustees also pointed out that the \$4 million is a key element of the Settlement Agreement and something that all parties to the

Settlement agreed upon. Therefore, all parties to the Settlement should ensure that the \$4 million is applied, as promised, if available.

EPA explained that remediation and restoration are tied together, even in a normal remediation project. Even without Trustee involvement, restoration would automatically be part of remediation. However, Trustee involvement will go above and beyond the normal wetlands restoration, etc., that is an integral part of any remediation project. In other words, sites must be returned to the way they were.

The Trustees explained that their review will be woven into projects at the GE facility as well as in the rest of the river. Restoration planning may be done in parallel with remediation, but this is not a foregone conclusion. Some restoration could conceivably get started before cleanup begins, if there are some projects that all parties agree upon as being worthwhile. The Trustees explained that it is preferable to perform “enhanced remediation or restoration” where feasible, assuming all other aspects of the remedial options are equal. Enhanced remediation gives GE some “NRD credit.”

Several members expressed concern that, until the Consent Decree (CD) is finalized, the Trustees will be making decisions without public input and that the public may never be privy to some of the rationale that was used to arrive at decisions during the period of confidentiality. The Trustees explained that Tom Keefe (Mass. Division of Fisheries & Wildlife) and Tom O’Brien (EOEA team leader for the Housatonic River Basin) have already been serving as go-betweens with the stakeholders relative to the Statement of Work that will be part of the Consent Decree. This has allowed the negotiating team to get some public input without disclosing the specifics of the Statement of Work that is currently bound by confidentiality. A member asked if all documents and discussions leading up to the Consent Decree would be made public once the Consent Decree is issued. The Trustees responded that not all discussions and analyses leading up to the Decree will be made public and that some of the information will probably remain confidential. However, the Trustees also stated that this issue has not yet been decided and that the Statement of Work and Consent Decree will go out for public comment. EPA’s representative stated that the Agencies will provide justification to the court, as well as to the public, about how and why the Settlement provisions were reached.

Several CCC members expressed concern over what will happen if anyone disagrees with the Trustees’ decisions about how to spend the available funds. The Trustees responded that only the Trustees can decide how to spend the money. If there is disagreement, the Trustees will have the last word under the law. The Trustees also added that, under the “spirit” of the Settlement, the Trustees have no right to make decisions without public input.

One member asked when the Newell Street commercial properties would be remediated. EPA responded that both the Agencies and GE are hoping to remediate the Newell Street properties simultaneously with remediation in the ½-mile stretch of the river. EPA added that some NRD improvements would also be done in the ½-mile stretch, simultaneous with remediation. Another member questioned the logistics of completing the 200-foot

restoration zone in East Street Area II prior to complete remediation of the oil plume. EPA responded that GE's work plan for the ½-mile stretch is due to be submitted on January 15 and that this work plan will address the bioturbation zone.

The Trustees stated that formal meetings of the Trustee Council will commence after the signing of the Consent Decree (probably in April), since the Consent Decree must be signed to establish the Trustees' authority. However, the Trustees added that they may meet informally before then. The Trustees stated that the law provides for Trustees, but not for an actual Trustee Council. They noted that the Council has been a successful component of other negotiated settlements at other sites. The Trustees have not yet decided if a Council will be formed that incorporates stakeholders, in addition to the actual Trustees. It may be better to keep the Trustee group simple and solicit and incorporate stakeholder concerns, rather than having a larger Council that duplicates what stakeholder groups have already done and will be doing in terms of participation.

The Trustees went on to explain that the actual individuals at each Trustee agency who will be functioning as Trustees have not been determined yet. The heads of the individual Trustee agencies may delegate their authority to other individuals at their respective agencies.

Regarding the proposed 5-year schedule, CCC members asked if the various phases must be kept independent of one another, or if they could be combined. The members also inquired if the 5-year time frame must be adhered to. The Trustees responded that they must determine what was damaged and then determine what the best suite of projects would be to remediate those damages. Once these decisions are made, the Trustees will refine their approach and zero in on additional planning. At each stage, there will be opportunities for public input. The NEPA process will be done concurrently, where possible. One of the Trustees added that he considers that this watershed is "ahead of the game," because much planning and other work has already been done in the watershed, including projects which will have restoration benefit and applicability. The Trustee added that there is no need to "reinvent the wheel." They can use existing resources and combine the work that has already been done by the Settlement Team and its consultants, HRI, the Watershed Team, the Division of Fisheries and Wildlife, etc. into a start-up public review document.

CCC members expressed concern over how the Trustees' funds will be invested and protected. The Trustees responded that they are deciding how to invest the money and keep it safe, so that it can earn interest.

Several CCC members also expressed concern over how the money will be divided up among the states and asked if an allocation will be part of the CD. The Trustees responded that they do not intend to include an allocation in the CD and that no allocation currently exists. Whereas, there may be a disagreement among the Trustees as to when allocation should occur, i.e., before or after development of a restoration plan, all Trustees have agreed that the allocation should not be included as part of the CD. One Trustee postulated that if an allocation were to be included in the CD, it would in essence

be inviting people to challenge it and have the judge make the final decision. They stated that this is not necessarily a desirable outcome or solution. The Trustees agreed with members of the CCC that the allocation be directed toward the watershed and not based on state boundaries. The Trustees must determine where (in the watershed) restoration will be most effective and base their allocation decisions on that. Some CCC members expressed concern that the state of Connecticut will get too large a share of the available funds and wondered if Connecticut's request can be voted down by the other Trustees. The Trustees clarified that there are two state Trustees, and two federal Trustees. The Trustees also clarified that a check will not be written and distributed to Connecticut, rather that the money must be applied to projects in Connecticut that have been agreed upon by all of the Trustees. Several CCC members voiced support of the Trustees' viewpoint on a watershed-based allocation. A CCC member added that the scope of the affected watershed should be defined in the restoration plan, because restoration activities should occur along portions of the watershed that were impacted, and not along unaffected tributaries or headwaters. The Trustees added, however, that a decision hasn't been made on this issue yet. Where there is a closer link between the actual damages and the restoration, there will be less chance of an appeal. However, it may be possible to restore significant areas in the headwaters, for example, if there is strong support from the community and the area will benefit greatly from restoration.

A member asked if there would be any third party review of the restoration plan, to ensure that the restoration is "first rate." EPA stated that both EPA and the Trustees have ecological experts on staff who will ensure that GE's restoration work is "first rate."

The Trustees recommended that CCC members access NOAA's website to be able to view examples of ongoing restoration work at several other sites. The website is: [www.noaa.gov](http://www.noaa.gov).

### **Discussion of Future Agenda**

Jane assisted the CCC in discussing possible topics for future meetings. The worksheet noted previously, "Possible Future Agenda Items" was used for this purpose. Several group members offered comments and posed questions to the representatives of the Agencies.

- ? EPA suggested that the February meeting focus on the work plan for the ½-mile stretch of the Housatonic River, because this will be submitted soon by GE and the public comment period will be initiated. GE pointed out that since this document is rather large in size, most members may not wish to receive a copy of the entire document. GE recommended that each CCC member receives a copy of the much shorter Executive Summary and then decide if they want to receive a copy of the much larger document. All parties agreed that this is an acceptable approach, especially since copies of the larger document will be placed in the public information repositories and, therefore, will be available for review by interested members.
- ? ? There was a request that DEP provide greater explanation concerning various aspects of the investigations and long-term monitoring at the Pittsfield Landfill.

DEP suggested that all CCC members read the fact sheet that was handed out at the end of the meeting, to determine if the fact sheet answers most or all of their questions. If additional questions remain after reading the fact sheet, CCC members should call the following at DEP's main number 413-784-1100: Mary Holland at ext.310, Larry Hansen at ext. 287 (DEP Solid Waste Project Manager), or J. Lyn Cutler at ext.316. In addition, DEP suggested that the March meeting would be preferable to the February meeting as a opportunity for having a more detailed discussion on the landfill, because more of the sampling results (in particular, those for adjacent river sediments) would be available at that time.

- ? ? The comment was made that, with the limited amount of time allowed for the meetings and the fact that much of the available time is devoted to a particular topic, there often is not sufficient time for members to ask questions or raise issues that they consider important and pressing. Therefore, a recommendation was made that the remainder of the March meeting be devoted to allowing members to ask questions on a variety of topics.
- ? ? It was noted that the Consent Decree is expected to be available for public comment in May, so the May meeting should concentrate on this document.
- ? ? The group members decided that they would like to hear additional information about natural resources damages and requested that the May meeting be devoted to this purpose.
- ? ? A request was made that the group receives a presentation on capping technologies, such as those that will be used at Silver Lake. The date for the presentation is to be determined.
- ? ? A member inquired about whether any ecological studies would be performed for South County portions of the river and when these studies would take place. EPA stated that it is developing a specific work plan for South County, based on the results of several meetings with persons representing South County interests. EPA noted that members can contact Susan Saversky at 617-918-2222 for information on river studies.
- ? ? A request was made to develop a subcommittee to investigate residential property issues. The member acknowledged that she realizes that the residential fill properties may not be of great interest to all CCC members, hence the group may not wish to focus individual group meetings on this topic. However, she added that she does not want this issue to get lost, if it is not the topic of a particular meeting of the entire group in the near future. Jane noted the need to discuss the creation of subcommittees for this and other issues.
- ? ? One member asked when the Agencies will be issuing "clean certificates" for residential fill properties, which have already been remediated. DEP responded that these "certificates" would be issued sometime this winter.

*Next meeting: February 3 at 5:30 p.m. at Pittsfield High School, subject: Presentation of Removal Action Workplan-Upper 1/2-Mile Reach of Housatonic River.*

To prepare for next meeting:

- Distribute *Removal Action Workplan-Upper 1/2-Mile Reach of Housatonic River*.
- Send out draft Agenda and 1/6/99 meeting notes.